



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

FACT SHEET FOR H.B. 2507

religious services; essential services

Purpose

Prohibits state government from taking any discriminatory action against a religious organization on the basis that the organization is religious, operates or seeks to operate during a state of emergency or engages in the exercise of religion. Declares a religious service as an essential service during a state of emergency. Outlines requirements for legal action relating to violations.

Background

The Governor may declare a state of emergency if the Governor finds that there exists conditions of disaster or extreme peril to the safety of persons or property within the state caused by air pollution, fire, flood, epidemic, riot, earthquake or other causes that are likely to be beyond the control of any single county or municipality ([A.R.S. § 26-301](#)). During a state of emergency, the Governor has complete authority over all agencies of the state government and the right to exercise all police power vested in the state by the Arizona Constitution. Additionally, the Governor may direct all agencies to utilize and employ personnel, equipment and facilities for the performance of activities designed to prevent or alleviate actual or threatened damage due to the emergency. The Governor's state of emergency powers end when the state of emergency proclamation has been terminated by proclamation of the Governor or Concurrent Resolution of the Legislature ([A.R.S. § 26-303](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits state government from taking any discriminatory action against a religious organization on the basis that the organization:
 - a) is religious;
 - b) operates or seeks to operate during a state of emergency; or
 - c) engages in the exercise of religion as protected under the First Amendment of the U.S. Constitution.
2. Defines *discriminatory act* as any direct or indirect act or practice that adversely affects a religious organization, including exclusion, restriction, segregation, limitation, refusal or denial.
3. Declares a religious service, during a state of emergency, to be an essential service deemed necessary and vital to the health and welfare of the public.

4. Requires state government to allow a religious organization to continue to operate and engage in religious services during a state of emergency to the same or greater extent as other organizations or businesses that provide essential services and that are necessary and vital to the health and welfare of the public.
5. Allows state government to require religious organizations to comply with neutral health, safety or occupancy requirements issued by the state government or the federal government that apply to all organizations and businesses that provide essential services.
6. Defines *state government* as:
 - a) Arizona or a political subdivision of Arizona;
 - b) a state agency or political subdivision, including a court or public institution of higher education;
 - c) any person acting in an official capacity; and
 - d) any private person suing under or attempting to enforce a law, rule or regulation adopted by the state government.
7. Prohibits state government from enforcing any health, safety or occupancy requirement that imposes a substantial burden on a religious service without demonstrating that applying the burden in that particular instance is:
 - a) essential to further a compelling government interest; and
 - b) is the least restrictive means of furthering the compelling government interest.
8. Authorizes a religious organization to assert, as a claim against state government or as a defense in any judicial or administrative proceeding without regard to the party bringing the proceeding, a violation of the requirements relating to the declaration of religious services as essential or the discriminatory action prohibition.
9. Allows an action to be commenced and relief to be granted without regard to whether the religious organization commencing the action has sought or exhausted administrative remedies.
10. Allows a religious organization that successfully asserts a claim or defense against state government to recover:
 - a) declaratory relief;
 - b) injunctive relief;
 - c) compensatory damages;
 - d) reasonable attorney fees and costs; and
 - e) any other appropriate relief.
11. Limits, to only declaratory and injunctive relief, a recovery by a religious organization that successfully asserts a claim or defense against a private person not acting in an official capacity.
12. Waives and abolishes sovereign and governmental immunities to the extent of liability established by the declaration of religious services as essential.
13. Allows a religious organization to sue state government, except for state courts, for authorized damages.

14. Directs the requirements relating to religious services as essential services and the discriminatory action prohibition to be construed in favor of a broad protection of the free exercise of religion.
15. Asserts that the protection of the free exercise of religion afforded by the requirements relating to religious services as essential services and discriminatory action prohibition are in addition to protections provided under federal law, Arizona law, the U.S. Constitution and the Arizona Constitution.
16. Stipulates that the requirements relating to religious services as essential services and the discriminatory action prohibition do not apply to a case based on criminal conduct or a tort action brought by a victim of the criminal conduct against a religious organization or an employee or volunteer of a religious organization, including a civil action arising from sexual conduct or sexual contact committed against a minor.
17. Defines *criminal conduct* to include any act, including all preparatory offenses, in violation of the criminal classification for:
 - a) manslaughter, second degree murder and first degree murder;
 - b) threatening or intimidation, assault, aggravated assault and assault with a vicious animal;
 - c) kidnapping;
 - d) sexual abuse, sexual conduct with a minor, sexual assault, molestation of a child, continuous sexual abuse of a child, sexual exploitation of a minor, luring a minor for sexual exploitation and commercial sexual exploitation of a minor;
 - e) racketeering;
 - f) preventing the use of a telephone in an emergency, using an electronic communication to terrify, intimidate, threaten or harass and unlawful use of an electronic communication device;
 - g) harassment and aggravated harassment;
 - h) surreptitious photographing, videotaping, filming or digitally recording and viewing; and
 - i) domestic violence and aggravated domestic violence.
18. Asserts that the requirements relating to religious services as essential services and that discriminatory action prohibition apply to:
 - a) all state and local laws and ordinances and the implementation of those laws and ordinances, whether statutory or otherwise and whether adopted before or after the general effective date; and
 - b) state laws enacted after the general effective date, unless explicitly excluded.
19. Stipulates that if any provision or application of the requirements relating to religious services as essential services and the discriminatory action prohibition is held invalid under law, the remainder of the provisions may not be affected.
20. Defines *religious organization* and *religious services*.
21. Contains a legislative findings clause.
22. Becomes effective on the general effective date.

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House Action

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Prepared by Senate Research

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